

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO

CISPER DA AMAZONIA, S.A.,

Plaintiff

v.

OWENS-ILLINOIS DE PUERTO RICO,  
LLC,

Defendant

CIVIL NO. 09-1041 (JAF)

REVALIDATION/DOMESTICATION  
(EXEQUATUR) OF DELAWARE  
JUDGMENT FOR COLLECTION OF MONEY

MOTION FOR DEFAULT ENTRY

TO THE HONORABLE COURT:

COMES NOW plaintiff Cisper Da Amazonia, S.A. ("CASA"), through its undersigned counsel, and respectfully shows:

1. The Defendant herein, Owens-Illinois de Puerto Rico, LLC ("OIPR-LLC") was served a true copy of the Summons and Complaint herein, on January 22, 2009, by delivery to its Registered Agent pursuant to the laws of Delaware<sup>1</sup>, National Registered Agents, Inc., located at 160 Greentree Dr., Suite 101, Dover, DE 19904. See, Rule

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<sup>1</sup> Delaware Limited Liability Company Act § 18-105, Del. Code Ann. Tit. 6, § 18-105 (2008), addressing service of process on domestic limited liability companies, provides:

(a) Service of legal process upon any domestic limited liability company shall be made by delivering a copy personally to ...any manager of the limited liability company in the State of Delaware or the registered agent of the limited liability company in the State of Delaware..."

Such service is considered actual delivery, not merely constructive. Interpreting the identical provisions of the Delaware General Corporation Law, the Delaware courts have long considered that service on a registered agent is no different from service in hand to the president of the corporation. Penn Central Light & Power Co. v. Central Eastern Power Co., 171 A. 332, 335 (Del. 1934). See also, Peterson v. Sealed Air Corp., 902 F.2d 1232, 1237 (7th Cir. 1990); Kolyba Corp. v. Banque Nationale De Paris, 316 A.2d 585, (Del. 1973).

4(h) (1) (B), Fed.R.Civ.P., and Proof of Service, Docket No. 4. See also, webpages from Secretary of State of Delaware as of March 24, 2009 and August 11, 2008, confirming Delaware as OIPR-LLC's jurisdiction of organization and the identity of its registered agent, hereto attached as composite **Exhibit A**.

2. The time for OIPR-LLC to answer or otherwise move in response to the Complaint, expired not later than February 11, 2009. See, Docket No. 4. Rule 12(a) (1) (A) (i). Fed.R.Civ.P.

3. Additionally, from an abundance of caution, after repeated efforts, Plaintiff CASA by counsel effected delivery through Federal Express on February 25, 2009 of a true copy of the summons and complaint, to Mr. Carlos Bermúdez, OIPR-LLC's known President and General Manager, who is located at Industrias Zanzibar, Autopista Duarte, Km. 2.8, Santo Domingo, República Dominicana. See, Declaration of Ubaldo Fernández-Barrera, hereto attached as **Exhibit B** and attachments thereto.

4. As of March 24, 2009, Defendant OIPR-LLC has neither answered the Complaint, nor otherwise moved in response thereto.

5. Rule 55, Fed.R.Civ.P., provides for the entry of default by the Clerk against any party who has failed to plead or otherwise defend.

6. Counsel will update its review of records to ascertain if the Delaware courts show any indication of payment upon the Delaware judgment or execution there, and then move for default judgment as soon as practicable after default entry herein.

WHEREFORE, OIPR-LLC having failed to answer or otherwise move, plaintiff Cisper Da Amazonia requests entry of default against

relief as may be just.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 25<sup>th</sup> day of March, 2009.

O'NEILL & BORGES

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By: s/ Ubaldo M. Fernandez

Ubaldo M. Fernández

USDC No. 224807

Email: Ubaldo.Fernández@oneillborges.com

# **EXHIBIT A**



# State of Delaware

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Department of State: Division of Corporations

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## Entity Details

THIS IS NOT A STATEMENT OF GOOD STANDING

File Number: 3405446 Incorporation Date / 07/02/2001  
Formation Date: (mm/dd/yyyy)

Entity Name: OWENS-ILLINOIS DE PUERTO RICO, LLC

Entity Kind: LIMITED LIABILITY COMPANY (LLC) Entity Type: GENERAL

Residency: DOMESTIC State: DE

## REGISTERED AGENT INFORMATION

Name: NATIONAL REGISTERED AGENTS, INC.  
Address: 160 GREENTREE DRIVE SUITE 101  
City: DOVER County: KENT  
State: DE Postal Code: 19904  
Phone: (302)674-4089

Additional Information is available for a fee. You can retrieve Status for a fee of \$10.00 or more detailed information including current franchise tax assessment, current filing history and more for a fee of \$20.00.

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### Entity Details

### THIS IS NOT A STATEMENT OF GOOD STANDING

Incorporation Date / (mm/dd/yyyy) **07/02/2001**  
Formation Date:  
File Number: **3405446**  
Entity Name: **OWENS-ILLINOIS DE PUERTO RICO, LLC**  
Entity Kind: **LIMITED LIABILITY COMPANY (LLC)** Entity Type: **GENERAL**  
Residency: **DOMESTIC** State: **DE**

### REGISTERED AGENT INFORMATION

Name: **NATIONAL REGISTERED AGENTS, INC.**  
Address: **160 GREENTREE DRIVE SUITE 101**  
City: **DOVER** County: **KENT**  
State: **DE** Postal Code: **19904**  
Phone: **(302)674-4089**

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# **EXHIBIT B**

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO

CISPER DA AMAZONIA, S.A.,

Plaintiff

v.

OWENS-ILLINOIS DE PUERTO RICO,  
LLC,

Defendant

CIVIL NO. 09-1041 (JAF)

REVALIDATION/DOMESTICATION  
(EXEQUATUR) OF DELAWARE  
JUDGMENT FOR COLLECTION OF MONEY

DECLARATION OF UBALDO FERNANDEZ-BARRERA

UBALDO M. FERNANDEZ-BARRERA, respectfully declares:

1. I am one of the counsel for Plaintiff Cisper Da Amazonia, S.A. ("CASA").

2. CASA and its counsel elected to provide notice in addition to that required by law, by delivery of an additional copy of the summons and complaint, to the known President and General Manager of the Defendant Owens-Illinois de Puerto Rico LLC (OIPR-LLC), Mr. Carlos Bermudez, who currently lives in, and works in the Dominican Republic at Industrias Zanzibar, Autopista Duarte, Km. 2.8, Santo Domingo, República Dominicana. I obtained this information from, among other sources, Mr. Hector Negrón, the former Administration Manager of OIPR-LLC.

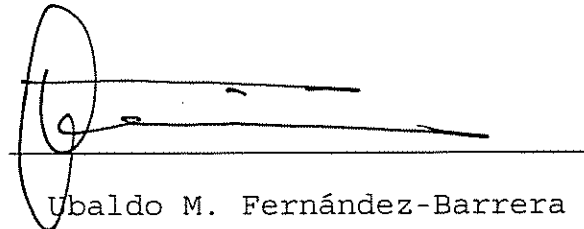
3. I sent by registered mail on February 9, 2009 a true copy of the summons and complaint to Mr. Bermudez at Industrias Zanzibar, Autopista Duarte, Km. 2.8, Santo Domingo, República Dominicana (Dominican Republic). I received no indication of

delivery. See, Exhibit 1, attached to this declaration.<sup>1</sup>

4. Consequently, I resent on February 17, 2009, by Global Express Guaranteed, another copy of the summons and complaint to Mr. Carlos Bermudez through International Federal Express at the same location stated above. Subsequent to March 1, 2009, I was able to confirm and did observe from the USPS website, that delivery was made to that location at 3:33 PM on February 25, 2009, and the documents showing that delivery are attached to this declaration as Exhibit 2.

I declare under penalty of perjury that the foregoing is true and correct.

Executed in San Juan, Puerto Rico, on March 24, 2009.



Ubaldo M. Fernández-Barrera

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<sup>1</sup> As of March 24, 2009, the USPS website shows no information other than the registered mailing's departure from a USPS Miami service center, reflected on the second page of Exhibit 1.



Registered No. RE54577306716

Date Stamp 02/09/09

To Be Completed By Post Office	Reg. Fee \$	Special Delivery \$
	Handling Charge \$	Return Receipt \$
	Postage \$	Restricted Delivery \$
	Received by <u>[Signature]</u>	
	Full Value \$	

Customer Must Declare Full Value \$ \$0.00

☐ With Postal Insurance  
☐ Without Postal Insurance

Domestic Insurance is limited To \$25,000; International Indemnity is Limited (See Reverse)

FROM Lcd. Ubaldo Fernandez  
OWens & Barges  
American International, 250 Murry Rivera  
San Juan, PR 00918-1813

TO OWens Illinois de Puerto Rico  
C/O Industrias Zanzibar, S.A  
Carretera, Presidente  
Autopista Duarte Km. 28  
Santo Domingo, Republica Dominicana

PS Form 3806, June 2000

Receipt for Registered Mail (Customer Copy)  
 (See Information on Reverse)

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## Track & Confirm

### Search Results

Label/Receipt Number: RB54 5773 967U S  
Status: International Dispatch

Your item left the United States from ISC MIAMI FL (USPS) at 6:32 PM on February 11, 2009. No further information is available for this item.

[Additional Details >](#)[Return to USPS.com Home >](#)[Track & Confirm](#)  
Enter Label/Receipt Number.[Go >](#)

### Notification Options

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## Track & Confirm

### Search Results

Label/Receipt Number: 8280 2687 21  
Status: Shipment Delivered

Your shipment was delivered at 3:33 PM on February 25, 2009 in SANTO DOMINGO, DOMINICAN REPUBLIC.

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### Track & Confirm

Enter Label/Receipt Number.

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### Notification Options

Track & Confirm by email

Get current event information or updates for your item sent to you or others by email.

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UNITED STATES POSTAL SERVICE

GXG International Air Waybill

International delivery  
by FedEx Express



From 02/07/09

to 02/07/09

Sender's Name Phone

Company O'Neill & Borges

Address American International Plaza

Address 350 Muñoz Rivera Ave., Ste. 800

City San Juan State PR

Country USA ZIP Code 00918-1513

To

Recipient's Name Queens Tilino de Puerto Rico Phone

Company CP Industries Zanibar, S.A. Fax

Address Carles Bernabé

Address Autopista Puente, KM. 28

City Santo Domingo State Province

Country República Dominicana ZIP Code Postal Code

Recipient's Tax ID Number for Customs Purposes (if applicable)

### 3 Shipment Information

☒ Documents  
Correspondence and other matter

☐ Non-Documents  
All other items. Recipient may be required to pay import duties and taxes. This shipment may be subject to inspection.

Specific Description Including Number of Each Item (and harmonized code if known)	Country of Manufacture	Value for Customs (US \$) REQUIRED
Documents	NA	NA
Total Value for Customs (US \$)		NA

WARNING: These commodities, technology, or software items exported from the United States in accordance with Export Administration Regulations. Diversion contrary to U.S. law prohibited.

### 4 Required Signature

I/We agree that the USPS terms and conditions (on the back of the Sender's Copy of this Air Waybill and in the Global Express Guaranteed Service Guide) and certain international treaties, including the Warsaw Convention, where applicable, apply and limit the liability of USPS and FedEx for loss and damage. I/We understand that USPS and FedEx DO NOT TRANSPORT CASH. I/We certify that this package does not contain any hazardous or restricted materials prohibited by postal regulations and does not require the filing of Electronic Export Information/EEI (formerly Shipper's Export Declaration/SED), and that the particulars given in the Shipment Information section are as declared. Submission of false information may result in civil or criminal penalties (19 USC 1001, 31 USC 2802).

Sender's Signature: Jueves

Date to	Time to	Scheduled Delivery Date	PO ZIP (+4) Code	Employee
02/17/09	8:51 AM	02/19/09	00938	
Dimensions in Inches (WxDxH)	Weight	Postage	Insurance Fee	Total Postage & Fees
NA	5.2	4.95	NA	4.95
<input checked="" type="checkbox"/> GXG Envelope or Pak <input type="checkbox"/> Box <input type="checkbox"/> Envelope <input type="checkbox"/> Other				
8982 8026 8727				



USPS  
Tracking  
Number

8280268721

Sender's Copy

For tracking go to the USPS Web site at  
[www.usps.com/shipping/trackandconfirm.htm](http://www.usps.com/shipping/trackandconfirm.htm)  
or call 1.800.222.1811.

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